IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7381 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUSHILA M RACCA

Versus

MAHARASHTRA SHIKSHAN MANDAL HIGH SCHOOL

Appearance:

1. Special Civil Application No. 7381 of 1999

MS MAYA S DESAI for Petitioner No. 1

MR ND GOHIL, AGP for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 14/09/2004

ORAL JUDGEMENT

The petitioner who is a retired lady-teacher had to approach this Court second time to seek full retiral benefits. Earlier, the petitioner had filed Special

Civil Application No.9434 of 1996 seeking pension and other retiral benefits which were not paid to her on account of the attitude on the part of the school authorities. The said Special Civil Application No.9434 of 1996 came to be disposed of by this Court by giving following directions:

"7. Petition is, therefore, allowed. On the facts and in the circumstances of the case, following directions are issued:

(a) The respondent No.1 is directed to forward the details submitted by the petitioner regarding the service rendered by her in the State of Maharashtra to the office of the respondent No.2 within a period of seven days from the date of receipt of copy of this order.

(b) The respondent No.2, on receipt of the aforesaid papers, shall process the same and make necessary orders in accordance with law within 15 days from the date of the receipt of such papers.

(c) The respondent No.4 shall make the necessary orders of revision of pension, if any, within a period of three weeks from the date of receipt of the papers from the office of the respondent No.2.

(d) The petitioner shall be entitled to interest at the rate of 12% p.a. on the amount of Rs.76,520/- for the period from 1st September, 1992 to 31st March 1997. The respondent No.2 shall calculate and pay the aforesaid amount of interest to the petitioner within a period of four weeks from the date of receipt of copy of this order. The petitioner shall also be entitled to costs of this petition. Cost is quantified at Rs.5,000/-. The respondent No.2 shall pay the amount of costs along with the amount of interest.

(e) The respondent No.2 shall recover the amount of costs and interest paid to the petitioner under the above directions, from the maintenance grant that may be due and payable to the respondent No.1 school management."

It is the case of the petitioner that pursuant to the said order dated 27th August 1997, the petitioner did receive the amounts as ordered by the Court. The petitioner further submits that in the said order, this Court had directed the respondent No.1 to forward the details submitted by the petitioner regarding the service rendered by her in the State of Maharashtra to the office of the respondent No.2 within a period of seven days from the date of receipt of the copy of the order and the respondent No.2 on receipt of the said papers was directed to process the same and pass necessary orders in accordance with law, within a period of 15 days from the date of receipt of such papers. It is the case of the petitioner that pursuant to the said directions, the case of the petitioner for being granted weightage for pensionary benefits for the service she rendered in Maharashtra State was taken by the authorities and accordingly an amount of Rs.64,099/- also came to be paid to the petitioner being the difference between the amount already paid and which the petitioner was now found to be entitled to by virtue of the addition of her service rendered in the State of Maharashtra. In the present petition, the petitioner prayed for being granted interest on the delayed payment of Rs.64,099/- which was actually paid to the petitioner on 8th February 1998.

2. The respondent No.2 has filed affidavit dated 27th August 2004 and contended that the benefits were given to the petitioner on 8th February 1998 and interest, if any, should be borne by the respondent No.1 since there was no delay in the office of the respondent No.2 and the payment was delayed only on account of the delay on the part of the respondent No.1.

3. Having considered the material on record and the submissions of the learned advocates for the petitioner as well respondent No.2, it is clear that though the petitioner was entitled to club her service rendered in Maharashtra State for retiral benefits, the consideration thereof was delayed on account of the lethargy and inaction on the part of the respondent No.1. If the respondent No.1 had taken timely steps and provided sufficient material to the respondent No.2 with respect to the service rendered by the petitioner in the State of Maharashtra on earlier occasion, surely the petitioner would have received the appropriate pensionary benefits in time. The respondent No.1 is therefore liable to carry the interest burden on the delayed payment of gratuity, pension, etc. of Rs.64,099/- paid to the

petitioner on 8.2.98.

4. In conclusion, I hold that the petitioner is entitled to receive simple interest from respondent No.1 at the rate of 10 per cent per annum from the date of her retirement i.e. 31st May 1992 till the actual payment was made i.e. 8th February 1998. As directed by this Court earlier in the order dated 27th August 1997, it is provided that the respondent No.2 shall recover the amount of interest, as directed in this order, payable to the petitioner from the maintenance grant payable to the respondent No.1 School.

5. The learned advocate for the petitioner requests for higher rate of interest on the basis of a decision in the case of Vijay L. Malhotra v. State of UP, 2000 AIR SCW 2678. The interest rates having come down during the last few years and even the Banks are now offering only about 6 per cent interest for fixed deposit receipts, the direction to pay interest at the rate of 10 percent would meet the ends of justice.

6. In the result, the petition is allowed to the above extent. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)
(vjn)